

INSTRUCTIONS

Read all forms and instructions before starting. Fill out forms by printing in blue ink or typing. Do not fill in un-numbered blanks on forms.

Arizona Rules of Family Law Procedure: The Arizona Rules of Family Law Procedure describe the procedures and forms required in family law cases. You can read the Rules at the Law Library or online at <www.supreme.state.az.us/rules/ramd_pdf/R-05-0008.pdf>.

WARNING: Depending on the circumstances of your case, the Arizona Rules of Family Law Procedure may require you to complete procedures and forms not covered in this packet. You are required to read and follow all of the rules. If you do not, the court may impose sanctions on you. At a minimum, you must read and understand Section II, on Pleadings and Motions, Section VII, on Discovery and Disclosure, and Rule 92, on Civil Contempt and Sanctions for Non-Compliance with a Court Order.

Seeing an Attorney: It is always advisable to see an attorney to protect your legal rights and understand your legal responsibilities. An attorney can explain your complex options for custody, dividing property and debts, and dividing tax dependency exemptions and can advise you on what's best for you and your family.

Notaries: Some forms must be signed in front of a notary. Notaries are at most banks or listed in the Yellow Pages. The person signing must bring photo ID. Notaries usually charge a fee.

Filing Fee: To find the fee to file court papers, see the Self-Help Center packet *Superior Court Filing Fees* or call the Clerk's Office at 928-779-6535. The Clerk's Office accepts only cash, money orders, and cashier's checks payable to "Clerk of Superior Court". If you can't afford the fee, see the Self-Help Center packet *Filing Fee Deferral at the Start of Your Case*.

Domestic Violence: If the other party has committed or threatened to commit physical violence against you or your children, and you do not want the other party to know your address: 1) use a post office box on all your court forms or 2) see Rule 7, Arizona Rules of Family Law Procedure. See the Self-Help Center *Arizona Order of Protection Packet* if you need a court to order the other party to stay away from you.

Continuing group health benefits: In many cases, federal law lets an employee's spouse and children temporarily continue group health benefits under the employer's plan after the employee and spouse are legally separated or divorced. To qualify for this extension, you or your spouse must notify the employer of your separation or divorce within 60 days of the court's signing the Decree. The beneficiary must pay the entire premium of the continued coverage; the employer makes no contribution.

Converting group health benefits: In *divorce* cases, Arizona law lets an employee's spouse and children convert group health benefits under the employer's plan into their name. If you decide later to convert the legal separation into a divorce, you must serve a Notice of Right to Convert Health Insurance on your spouse when you file divorce papers. This form is in the Self-Help Center divorce packets.

STEP 1: MAKE SURE YOUR SPOUSE WILL NOT OBJECT TO A DECREE OF LEGAL SEPARATION

If so, the court will not grant one. You may file for divorce instead.

STEP 2: READ THE CONCILIATION COURT FACT SHEET

If you want to apply for counseling or mediation, see the Self-Help Center packet *Conciliation Court: Asking for Counseling or Mediation Services Before You Get a Court Order*.

STEP 3: READ THE NOTICE REGARDING COMMUNITY DEBTS

STEP 4: DECIDE HOW TO DIVIDE PROPERTY AND DEBTS

You will enter how you want to divide property and debts on the Petition.

Community Property and Debts: In general, community property is property (other than a gift or inheritance to one party) that you and your spouse acquire after you were married and before one spouse serves divorce papers on the other. See the Petition for a list of types of community property. One type of community property is retirement benefits (pension/retirement fund/profit sharing/stock plans/401k). Division of retirement benefits is a complicated area of the law. After the judge divides the retirement benefits, you will have to contact an attorney, accountant, or company representative to get the documents needed to access the retirement monies.

In general, community debts are debts you and your spouse acquire after you were married and before one spouse serves divorce papers on the other, no matter who spent the money. Generally, the court will order a fair division and will not give most or all of the property or debts to one spouse. If you and/or your spouse still owe money on a piece of property, the court will probably give that debt to the same spouse who gets that property. You may ask that real property be sold and the proceeds divided between you and your spouse. Community property and debts you fail to list on the Petition will be considered still owned or owed by both you and your spouse.

Separate Property and Debts: In general, separate property is property you or your spouse acquire before you were married, after one spouse serves divorce papers on the other, or as an inheritance or gift to one party. Separate property may become commingled community property in some circumstances.

In general, separate debts are debts you or your spouse acquire before you were married or after one spouse serves divorce papers on the other.

The court usually will confirm that your separate property and debts are yours and your spouse's separate property and debts are your spouse's.

STEP 5: FILL OUT THE DOMESTIC RELATIONS COVER SHEET

You are the Petitioner. Your spouse is the Respondent. Fill in as much information as you know.

STEP 6: FILL OUT THE CONFIDENTIAL SENSITIVE DATA FORM

- (1) Enter your name; street address; city, state, and zip code; and phone number.
- (2) Enter your name.
- (3) Enter the other party's name.
- (4) Enter the name, birthdate, and social security number of yourself, the other party, and each biological or adopted child of you and the other party who is under 18 or 18 and in high school.

STEP 7: FILL OUT THE PETITION FOR LEGAL SEPARATION WITHOUT CHILDREN

- (1) Enter your name; street address; city, state, and zip code; and phone number.
- (2) Enter your name.
- (3) Enter your spouse's name.
- (4) Enter your name, address, birthdate, phone number, and job title. Enter the number of years and/or months you have lived in Arizona in a row to date. If you don't live in Arizona now, check the box indicating whether you lived in Arizona at some time during your marriage.
- (5) Enter your spouse's name, address, birthdate, phone number, and job title. Enter the number of years and/or months your spouse has lived in Arizona in a row to date. If your spouse doesn't live in Arizona now, check the box indicating whether your spouse lived in Arizona at some time during your marriage.
- (6) Enter the date and location (city and state or country) of your marriage.
- (7) Spousal support is paid by one spouse to another when the other meets at least one requirement listed. Check the box indicating whether the court should order spousal support. If so, check the box indicating who should receive the support, enter the amount to be paid monthly, and check the box next to each requirement that spouse meets. If you want the support to end before the receiving party is remarried or deceased, enter the date the support will end.
- (8) Check the box indicating whether you and your spouse have community property.
- (9) For the community real property, list the address, legal description on the deed (example: "Lot 77, Pine Tree Acres, According to Book 111 of Maps"), and equity (value minus debts). If you want it to go to you or spouse, check the box indicating who it should go to. If you want it sold, check the box, and enter what percent of the proceeds should go to each spouse.

Be thorough and specific when describing community property. For example, under Household Furnishings, you could say "blue and white living room sofa". Use brand and model names and serial numbers wherever possible.

- (10) For each community bank account, list the name on the account and account description (for example, "savings" or "money market"), check the box indicating who it should go to, and list the balance.
- (11) For each piece of community furniture, list the description, check the box indicating who should get it, and list the value for which it could be sold.
- (12) For each community furnishing, list the description, check the box indicating who should get it, and list the value for which it could be sold.
- (13) For each piece of community property not covered above, list the description, check the box indicating who should get it, and list the value for which it could be sold.
- (14) For each community motor vehicle, list the make, model, lienholder, last four digits of the vehicle identification #, and amount owed; check the box indicating who should get it; and list the value for which it could be sold.
- (15) For each community retirement benefit, enter the fund name and the last four digits of the account number, the name on the account, and its value. Check the box indicating how you want the funds divided. If you check Option 3, enter the percentage of each account that should go to each spouse.
- (16) Check the box indicating whether you and your spouse have community debts. For each community debt, list the creditor and the last four digits of the account or credit card number, check the box indicating to whom it should be assigned, and list the amount owed.
- (17) Check the box indicating whether you and/or your spouse have separate property. For each piece of separate property, list the description, check the box indicating who should get it, and list the value for which it could be sold.
- (18) Check the box indicating whether you and/or your spouse have separate debts. For each separate debt, list the name on the account, creditor, and description (for example, "credit card"); check the box indicating who it should be assigned to; and list the amount owed.

- (19) Enter how you want to file your taxes in the years before the judge signs the Decree. If you have questions, you should see a lawyer or accountant or contact the Internal Revenue Service (IRS).
- (20) Enter any other orders you want the court to issue.
- (21) Read the Petition and make sure that you understand everything in it and that everything in it is true. Sign in front of a notary.

STEP 8: FILL OUT THE DECREE OF LEGAL SEPARATION WITHOUT CHILDREN

The Decree is the court order that grants your separation and determines both spouses' rights and responsibilities. Both parties must obey the Decree. Enter the same information and requests on the Decree that you entered on the Petition. If you enter new or different orders on the Decree, the judge will not sign it unless 1) you filed and served an amended Petition or 2) both parties agree and sign the Decree or 3) the judge orders something else after a trial.

- (1) Enter your name; street address; city, state, and zip code; and phone number.
- (2) Enter your name.
- (3) Enter your spouse's name.
- (4) Enter your case number if you already have one.
- (5) If both spouses will sign the Decree, check the first box. Do not check the second box.
- (6) Spousal support is paid by one spouse to another when the other meets at least one requirement listed. Check the box indicating whether the court should order spousal support. If so, check the box indicating who should receive the support, enter the amount to be paid monthly, and check the box next to each requirement that spouse meets. If you want the support to end before the receiving party is remarried or deceased, enter the date the support will end.
- (7) If your spouse will not sign the Decree or an agreement to the division of property and debts, check the box. Do not fill in the blank.
- (8) If your spouse will sign an agreement to the division of property and debts, check the box.
- (9) Enter how you want to file your taxes in the years before the judge signs the Decree. If you have questions, you should see a lawyer or accountant or contact the Internal Revenue Service (IRS).
- (10) Enter any other orders you want the court to issue.
- (11) Read the Decree and make sure that you understand everything in it and that everything in it is true. Sign in the front of a notary. If your spouse agrees to all the terms of the separation or divorce, your spouse may also sign in front of a notary.

STEP 9: IF YOUR SPOUSE WILL SIGN AN AGREEMENT TO THE DIVISION OF PROPERTY AND DEBT, FILL OUT EXHIBIT A

- (1) Check the box indicating whether you and your spouse have community property.
- (2) For the community real property, list the address, legal description on the deed (example: "Lot 77, Pine Tree Acres, According to Book 111 of Maps"), and equity (value minus debts). If you want it to go to you or spouse, check the box indicating who it should go to. If you want it sold, check the box, and enter what percent of the proceeds should go to each spouse.

Note: Be thorough and specific when describing community property. For example, under Household Furnishings, you could say "blue and white living room sofa". Use brand and model names and serial numbers wherever possible.

- (3) For each community bank account, list the name on the account and account description (for example, "savings" or "money market"), check the box indicating who it should go to, and list the balance.
- (4) For each piece of community furniture, list the description, check the box indicating who should get it, and list the value for which it could be sold.

- (5) For each community furnishing, list the description, check the box indicating who should get it, and list the value for which it could be sold.
- (6) For each piece of community property not covered above, list the description, check the box indicating who should get it, and list the value for which it could be sold.
- (7) For each community motor vehicle, list the make, model, lienholder, last four digits of the vehicle identification #; and amount owed; check the box indicating who should get it; and list the value for which it could be sold.
- (8) For each community retirement benefit, enter the fund name and the last four digits of the account number, the name on the account, and its value. Check the box indicating how you want the funds divided. If you check Option 3, enter the percentage of each account that should go to each spouse.
- (9) Check the box indicating whether you and your spouse have community debts. For each community debt, list the creditor and the last four digits of the account or credit card number, check the box indicating to whom it should be assigned, and list the amount owed.
- (10) Check the box indicating whether you and/or your spouse have separate property. For each piece of separate property, list the description, check the box indicating who should get it, and list the value for which it could be sold.
- (11) Check the box indicating whether you and/or your spouse have separate debts. For each separate debt, list the name on the account, creditor, and description (for example, "credit card"); check the box indicating who it should be assigned to; and list the amount owed.
- (12) Read the Exhibit and make sure that you understand everything in it and that everything in it is true. Sign in front of a notary, and have your spouse sign in front of a notary.

STEP 10: FILL OUT THE SUMMONS

- (1) Enter your name; street address; city, state, and zip code; and phone number.
- (2) Enter your name.
- (3) Enter the other party's name.
- (4) Enter the other party's name.

STEP 11: FILL OUT THE PRELIMINARY INJUNCTION

Read the Preliminary Injunction and make sure you understand it.

- (1) Enter your name; street address; city, state, and zip code; and phone number.
- (2) Enter your name.
- (3) Enter your spouse's name.
- (4) Enter your name, driver's license number, birthdate, gender, weight, and height.
- (5) Enter your spouse's name, driver's license number, birthdate, gender, weight, and height.

STEP 12: FILE THE FORMS WITH THE COURT

Take or mail the filing fee and the original and two copies of the following to the Clerk's Office in the Coconino County Court House at 200 North San Francisco, Flagstaff, AZ 86001.

- ☐ Domestic Relations Cover Sheet
- ☐ Petition for Legal Separation without Children
- ☐ Decree of Legal Separation without Children, with Exhibit A attached if applicable
- ☐ Summons
- ☐ Preliminary Injunction

[] Notice Regarding Community Debts

The Clerk will stamp your copies with the filing date and return them to you for your records. If you file by mail, include a self-addressed, stamped envelope and a note asking the Clerk to return the date-stamped copies to you.

STEP 13: SERVE THE FORMS ON YOUR SPOUSE

See the INSTRUCTIONS: SERVING COURT PAPERS ON THE OTHER PARTY AT THE START OF YOUR CASE in this packet.

STEP 14: WAIT FOR YOUR SPOUSE TO RESPOND

See the table below for how long Respondent has to file a written response to the Petition. Find the date in the “After” column on a calendar. Start counting on the next day. Count off the days in the “Count” column, including weekends and holidays. Respondent must respond by the last date you counted, unless it’s a weekend or court holiday, in which case Respondent must respond by the next workday.

Where Were the Papers Served?	How Were the Papers Served?	Count:	After:
In AZ, not on an Indian Reservation	Acceptance of Service	20 days	The other party signs the Acceptance of Service
	Process Server	20 days	The other party receives the papers from the process server
	Sheriff	20 days	The other party receives the papers from the sheriff
In AZ, on an Indian Reservation*	Acceptance of Service	30 days	The other party signs the Acceptance of Service
	Tribally Licensed Process Server	30 days	The other party receives the papers from the process server
	Tribal Law Enforcement	30 days	The other party receives the papers from the officer
Outside of AZ	Acceptance of Service	30 days	The other party signs the Acceptance of Service
	Certified Mail	30 days	The other party signs the green card
	Process Server	30 days	The other party receives the papers from the process server
	Sheriff or Tribal Law Enforcement	30 days	The other party receives the papers from the officer
	Publication	30 days	30 days after the first publication

***If the Papers Were Served on an Indian Reservation in Arizona:** Depending on the facts and circumstances of the case, there *may* be fewer days for the Respondent to respond. An attorney can advise you.

STEP 15: DECIDE HOW TO PROCEED

If Respondent Agrees with Everything in the Petition:

Respondent can: Not respond. Respondent may sign the Decree before the hearing to show the court he/she agrees. Respondent will lose the right to object to anything. See an attorney for other options.

Then Petitioner can: File for default. See the Self-Help Center packet *Filing for Default*.

The case will end: At a default hearing (unless Respondent files a Response within the default grace period).

If Respondent Disagrees with Something in the Petition:

Respondent can: File a Response. See the Self-Help Center packet on responding.

Then either spouse can: Ask the court to schedule a trial if the court does not automatically schedule a hearing. See the Self-Help Center packet *How to Set Your Case for Trial*.

The case will end: At a trial.

If Respondent Fails to Respond on Time:

Petitioner can: File for default. See the Self-Help Center packet *Filing for Default*.

The case will end: At a default hearing (unless Respondent files a Response within the default grace period).

If Spouses Come to an Agreement After Respondent Files a Response:

Spouses can: See the Self-Help Center packet *Stipulation*.

The case will end: At a 15-minute hearing.

If Respondent Does Not File a Response, and Spouses Come to an Agreement Different from the Petition:

Spouses can: Fill out and sign a new Decree. File the new Decree with a note saying it is the most current Decree and both spouses signed it.

Then Petitioner can: File for default. See the Self-Help Center packet *Filing for Default*.

The case will end: At a default hearing (unless Respondent files a Response within the default grace period).

STEP 16: IF RESPONDENT FILES A RESPONSE: SEE FAMILY LAW RULES 49 AND 66

If Respondent files a Response, you must meet the requirements of Rule 49, on disclosure, and Rule 66, on alternative dispute resolution, in the Arizona Rules of Family Law Procedure.